

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0306-AIR-E **TCEQ ID:** RN102895745 **CASE NO.:** 32831  
**RESPONDENT NAME:** Nalco Company

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Nalco Sugar Land Plant, 7701 Highway 90A, Sugar Land, Fort Bend County

**TYPE OF OPERATION:** Specialty chemical plant

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on June 25, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553;  
 Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  
**Respondent:** Mr. John S. Wantuch, Plant Manager, Nalco Company, 7701 Highway 90A, Sugar Land, Texas 77478  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 9, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 16, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. One violation was documented.</p> <p><b>AIR</b></p> <p>Failed to prevent unauthorized emissions. Specifically, 7,480 pounds (lbs) of unauthorized emissions of ethylenediamine (EDA) were released into the atmosphere during an emissions event which occurred on January 8, 2007 and lasted one hour. Since the emissions event was avoidable, Nalco failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN CODE § 116.115(c), TEX. HEALTH AND SAFETY CODE § 382.085(b), and Air Permit No. 2590, Special Condition No. 1].</p>	<p><b>Total Assessed:</b> \$4,750</p> <p><b>Total Deferred:</b> \$950 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,800</p> <p><b>Site Compliance History Classification</b> <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as the emissions event that occurred on January 8, 2007; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance.</p>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision January 9, 2007

DATES	Assigned	26-Feb-2007	Screening	28-Feb-2007	EPA Due	
	PCW	7-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Nalco Company
Reg. Ent. Ref. No.	RN102895745
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	32831	No. of Violations	1	
Docket No.	2007-0306-AIR-E	Order Type	1660	
Media Program(s)	Air Quality	Enf. Coordinator	Roshondra Lowe	
Multi-Media		EC's Team	EnforcementTeam 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-5% Enhancement	Subtotals 2, 3, & 7	-\$250
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Notes: Penalty reduction due to participation in a voluntary pollution reduction program.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$148	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$3,500	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$4,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,750
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DEFERRAL	20% Reduction	Adjustment	-\$950
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,800
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Screening Date 28-Feb-2007

Docket No. 2007-0306-AIR-E

PCW

Respondent Nalco Company

Policy Revision 2 (September 2002)

Case ID No. 32831

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102895745

Media [Statute] Air Quality

Enf. Coordinator Roshondra Lowe

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	Yes	-5%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) -5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty reduction due to participation in a voluntary pollution reduction program.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) -5%

Screening Date 28-Feb-2007

Docket No. 2007-0306-AIR-E

PCW

Respondent Nalco Company

Policy Revision 2 (September 2002)

Case ID No. 32831

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102895745

Media [Statute] Air Quality

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 116.115(c), Tex. Health and Safety Code § 382.085(b), and Air Permit No. 2590, Special Condition No. 1

## Violation Description

Failed to prevent unauthorized emissions. Specifically, 7,480 pounds (lbs) of unauthorized emissions of ethylenediamine (EDA) were released into the atmosphere during an emissions event which occurred on January 8, 2007 and lasted one hour. Since the emissions event was avoidable, Nalco failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$5,000

\$5,000

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$5,000

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$148

Violation Final Penalty Total \$4,750

This violation Final Assessed Penalty (adjusted for limits) \$4,750

## Economic Benefit Worksheet

**Respondent** Nalco Company  
**Case ID No.** 32831  
**Reg. Ent. Reference No.** RN102895745  
**Media** Air Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$3,500	8-Jan-2007	13-Nov-2007	0.8	\$148	n/a	\$148

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent the rupture of fusible link disk. Date required is date of the emissions event. Final date based on the projected date corrective actions will be completed.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,500

TOTAL

\$148

# Compliance History

Customer/Respondent/Owner-Operator: CN602898751 Nalco Company Classification: AVERAGE Rating: 0.90  
 Regulated Entity: RN102895745 NALCO SUGAR LAND PLANT Classification: HIGH Site Rating: 0.00

ID Number(s):  
 AIR OPERATING PERMITS ACCOUNT NUMBER FG0025L  
 AIR OPERATING PERMITS PERMIT 1538  
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD008084618  
 GENERATION  
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 30601  
 GENERATION (SWR)  
 AIR NEW SOURCE PERMITS REGISTRATION 72131  
 AIR NEW SOURCE PERMITS PERMIT 2590  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER FG0025L  
 AIR NEW SOURCE PERMITS REGISTRATION 54677  
 AIR NEW SOURCE PERMITS REGISTRATION 75819  
 AIR NEW SOURCE PERMITS REGISTRATION 75516  
 AIR NEW SOURCE PERMITS AFS NUM 4815700003  
 AIR NEW SOURCE PERMITS REGISTRATION 70436  
 AIR NEW SOURCE PERMITS REGISTRATION 50823  
 AIR NEW SOURCE PERMITS REGISTRATION 52500  
 AIR NEW SOURCE PERMITS REGISTRATION 77829L001  
 AIR NEW SOURCE PERMITS REGISTRATION 78193  
 AIR NEW SOURCE PERMITS REGISTRATION 79505  
 AIR NEW SOURCE PERMITS REGISTRATION 80095  
 AIR NEW SOURCE PERMITS REGISTRATION 80578  
 AIR NEW SOURCE PERMITS REGISTRATION 81191  
 STORMWATER PERMIT TXR05K051  
 INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50120  
 STORAGE  
 INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50120  
 STORAGE

Location: 7701 HIGHWAY 90A, SUGAR LAND, TX, 77478 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 28, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 26, 2002 to February 26, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Roshondra Lowe Phone: (713) 767-3553

## Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? Yes
- If Yes, who is the current owner? Nalco Company
- If Yes, who was/were the prior owner(s)? Nalco Energy Services, Inc.  
Nalco Energy Services,
- When did the change(s) in ownership occur? 10/30/2002  
01/23/2006

## Components (Multimedia) for the Site :

- Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- Any criminal convictions of the state of Texas and the federal government.  
N/A
- Chronic excessive emissions events.  
N/A
- The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A

N/A

- 03/14/2002 (76630)
- 05/29/2002 (76631)
- 06/24/2005 (394221)

4 02/15/2006 (450680)  
5 12/21/2006 (511967)  
6 02/20/2007 (539273)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

Type	Tier	Certification Date
CLEAN TEXAS PROGRAM	PARTNERSHIP	11/01/2004
CLEAN TEXAS PROGRAM	PARTNER	11/01/2004

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NALCO COMPANY  
RN102895745**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0306-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Nalco Company ("Nalco") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division and Nalco appear before the Commission and together stipulate that:

1. Nalco owns and operates a specialty chemical plant at 7701 Highway 90A in Sugar Land, Fort Bend County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Nalco agree that the Commission has jurisdiction to enter this Agreed Order, and that Nalco is subject to the Commission's jurisdiction.
4. Nalco received notice of the violations alleged in Section II ("Allegations") on or about February 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nalco of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Seven Hundred Fifty Dollars (\$4,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nalco has paid Three Thousand Eight Dollars (\$3,800) of the administrative penalty and Nine Hundred Fifty Dollars (\$950) is deferred contingent upon Nalco's timely and



satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Nalco fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Nalco to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Nalco have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nalco has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, Nalco is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN CODE § 116.115(c), TEX. HEALTH AND SAFETY CODE § 382.085(b), and Air Permit No. 2590, Special Condition No. 1, as documented during an investigation conducted on January 9, 2007. Specifically, 7,480 pounds (lbs) of unauthorized emissions of ethylenediamine (EDA) were released into the atmosphere during an emissions event which occurred on January 8, 2007 and lasted one hour. Since the emissions event was avoidable, Nalco failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

## **III. DENIALS**

Nalco generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Nalco pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Nalco's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nalco Company, Docket No. 2007-0306-AIR-E" to:



Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that Nalco shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as the emissions event that occurred on January 8, 2007; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, monitoring records, training records, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Nalco. Nalco is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Nalco fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other



catastrophe, Nalco's failure to comply is not a violation of this Agreed Order. Nalco shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Nalco shall notify the Executive Director within seven days after Nalco becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Nalco shall be made in writing to the Executive Director. Extensions are not effective until Nalco receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Nalco in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Nalco, or three days after the date on which the Commission mails notice of the Order to Nalco, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.





## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdian  
\_\_\_\_\_  
For the Executive Director

8/2/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

John S Wantuch  
\_\_\_\_\_  
Signature

4-23-07  
\_\_\_\_\_  
Date

JOHN S WANTUCH  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Nalco Company

Plant Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

